

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

RICHARD NIELDS,

Petitioner,

-vs-

MARGARET BRADSHAW, Warden,

Respondent.

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Case No. C-1-03-019

District Judge Thomas M. Rose
Magistrate Judge Michael R. Merz

ORDER FOR ADDITIONAL BRIEFING

This case is before the Court on Petitioner's Motion to Convey (Doc. No. 54) which Petitioner indicates the State opposes.

An issue not addressed in the Motion is the question whether this Court has jurisdiction over the Warden to grant the requested relief. The Court is not in doubt about its authority to appoint and compensate counsel for state clemency proceedings. *Harbison v. Bell*, 129 S. Ct. 1481 (2009), and believes, at least prima facie, that that authority extends, as argued by Petitioner, to paying for expert services. However, the habeas corpus proceedings in this Court are at an end and it would therefore appear the Court's ancillary jurisdiction to order movement of the Petitioner has likewise expired.

Petitioner's counsel is requested to address this question in supplemental briefing as quickly as possible.

December 29, 2009.

s/ **Michael R. Merz**
United States Magistrate Judge